

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JUAN MORENO,

Plaintiff,

-against-

MEMORANDUM & ORDER  
14-CV-7231 (JS) (AKT)

THE EPISCOPAL DIOCESE OF LONG ISLAND,  
BISHOP LAWRENCE PROVENZANO, and  
DEACON GAIL KERTLAND,

Defendants.

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APPEARANCES

For Plaintiff: Larry James McCord, Esq.  
Law Offices of Larry McCord & Associates  
1291 Straight Path  
West Babylon, NY 11704

For Defendants: Brian M. Hussey, Esq.  
401 Franklin Avenue, Suite 311  
Garden City, NY 11530

James D. Lynch, Esq.  
Lynch & Lynch  
401 Franklin Avenue, Suite 311  
Garden City, NY 11530

SEYBERT, District Judge:

Pending before the Court is Defendants' motion for judgment on the pleadings (Docket Entry 15) and Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation ("R&R"), recommending that this Court grant Defendants' motion. (Docket Entry 29.) For the following reasons, the Court ADOPTS Judge Tomlinson's R&R in its entirety.

### BACKGROUND

This action was commenced on December 11, 2014 by plaintiff Juan Moreno ("Plaintiff") against defendants the Episcopal Diocese of Long Island, Bishop Lawrence Provenzano, and Deacon Gail Kertland (collectively "Defendants"). Plaintiff alleges that Defendants discriminated against him on the basis of his race in violation of Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000(e) et seq. and 42 U.S.C. § 1981a. (Compl. at 8.) Plaintiff also asserts several related state law and common law claims against Defendants. (See Compl. at 10-15.)

On July 9, 2015 Defendants filed a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). (Docket Entry 15.) On October 13, 2015 the undersigned referred Plaintiff's motion to Magistrate Judge Tomlinson for an R&R on whether the motion should be granted. (Docket Entry 26.)

On January 20, 2016 Judge Tomlinson issued her R&R. (Docket Entry 29.) The R&R recommends that the Court grant Defendants' motion, dismiss Plaintiff's federal claims with prejudice, and dismiss Plaintiff's state law claims and common law claims without prejudice. (R&R at 22.)

### DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C.

§ 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Tomlinson's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

#### CONCLUSION

Judge Tomlinson's R&R (Docket Entry 26) is ADOPTED in its entirety. Plaintiff's federal claims are DISMISSED WITH PREJUDICE, and Plaintiff's state law and common law claims are DISMISSED WITHOUT PREJUDICE. Plaintiff may refile his state law and common law claims in state court. The Clerk of the Court is directed to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: March 4, 2016  
Central Islip, New York